

REMARKS:

Status Of Claims

Claims 14-20 and 24-27 were previously pending. Claim 18 has been amended. Thus, claims 14-20 and 24-27 are currently pending in the application with claim 14, 18, and 24 being independent.

Office Action

In the Office Action, the Examiner stated that claims 24-27 remain allowable. The Examiner also stated that claims 18-20 would be allowable if rewritten to overcome the following rejection.

The Examiner rejected claims 18-20 under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner asserts that the word “approximately” was held to be indefinite. However, the Examiner fails to support that assertion. While Applicant disagrees with the Examiner, in an effort to advance prosecution, Applicant has replaced “approximately” with “about”, which Applicant views as having identical meanings. Applicant also notes that the MPEP § 2173.05(b)A states:

The term “about” used to define the area of the lower end of a mold as between 25 to about 45% of the mold entrance was held to be clear, but flexible. (Citing *Ex parte Eastwood*, 163 USPQ 316 (Bd. App. 1968)).

The Examiner also rejected claims 14 and 15 under 35 U.S.C 103(a) as being unpatentable over Mola et al., U.S. Patent No. 6,125,030. The Examiner also rejected claim 16 under 35 U.S.C 103(a) as being unpatentable over Mola in view of Blank, U.S.

Patent No. 5,576,687. The Examiner also rejected claim 17 under 35 U.S.C 103(a) as being unpatentable over Mola in view of Kitazawa, U.S. Patent No. 6,633,347. Applicant respectfully submits that the currently pending claims distinguish the present invention over Mola, Blank, Kitazawa, and the other prior art references taken alone or in combination.

Specifically, claim 14 recites “a mounting assembly mounted in an open port of a vehicle resulting from removal of a non-navigational component, the mounting assembly mounting the navigational device and ***generally linearly raising and lowering*** the mounted navigational device between at least two linear viewing positions, such that in a first, raised position, only a lower portion of the display may be viewed, and in a second, lowered position, substantially all of the display may be viewed”, emphasis added.

Applicant notes that MPEP §2173.05(g) states:

A functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step. >In *Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006-08 (Fed. Cir. 2004), the court noted that the claim term “operatively connected” is “a general descriptive claim term frequently used in patent drafting to reflect a functional relationship between claimed components,” that is, the term “means the claimed components must be connected in a way to perform a designated function.” “In the absence of modifiers, general descriptive terms are typically construed as having their full meaning.” *Id.* at 1118, 72 USPQ2d at 1006. In the patent claim at issue, “subject to any clear

and unmistakable disavowal of claim scope, the term ‘operatively connected’ takes the full breath of its ordinary meaning, i.e., ‘said tube [is] operatively connected to said cap’ when the tube and cap are arranged in a manner capable of performing the function of filtering.” *Id.* at 1120, 72 USPQ2d at 1008. (emphasis added).

Mola, like the previously cited Chang, clearly teaches his display being **rotated** between raised and lowered positions, rather than being linearly raised and lowered. As a result, no reasonable reading of Mola discloses, suggests, or makes obvious “a mounting assembly mounted in an open port of a vehicle resulting from removal of a non-navigational component, the mounting assembly mounting the navigational device and generally linearly raising and lowering the mounted navigational device between at least two linear viewing positions, such that in a first, raised position, only a lower portion of the display may be viewed, and in a second, lowered position, substantially all of the display may be viewed”, as claimed in claim 14.

The remaining claims all depend directly or indirectly from independent claim 14, and are therefore also allowable.

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 501-791. In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

Respectfully submitted,
By: /David L. Terrell/
David L. Terrell, Reg. No. 50,576
Garmin International, Inc.
1200 East 151st Street
Olathe, KS 66062
(913) 397-8200
(913) 397-9079 (Fax)